



GE Consumer & Industrial

**Environmental, Health & Safety
Appliance Park, AP26-100, Louisville, KY 40225**

October 7, 2004

Mr. Art Williams
Director
Louisville Metro Air Pollution Control District
850 Barret Avenue
Louisville, Kentucky 40204-1745

Re: **Comments on Proposed STAR Program Regulations**
GE Consumer & Industrial, Appliance Park, Louisville, Kentucky

Dear Director Williams:

GE Consumer & Industrial submits these initial general comments on the "Strategic Toxic Air Reduction" (STAR) program regulations, released to the public and regulated community in late September. We continue to review these broad and complex regulations and intend to submit more detailed comments in the near future. Given the short deadline imposed by the District for providing input prior to the Board's consideration of the program, these comments highlight our overall concerns with the program and provide a few examples that we hope the Board will consider as it determines the appropriate course of action.

Process Concerns

At the outset, **we are troubled by the lack of public and regulated community input** before introducing such a broad overhaul of the District's approach to air toxics regulation. We believe that a stakeholder process would have enabled the District to focus its efforts on the specific air toxics concerns of the community while also taking into account the practical operational aspects of developing a workable and legally defensible program. We are certain that a participatory process would have yielded a far better work product. GE urges the District to correct this error by convening a process at this time. GE is willing and able to participate meaningfully in such a process.

Additionally, **it is inappropriate to require the regulated community to respond in such a hurried manner**. It is clear to us that the District staff has spent considerable time to develop this set of regulations. Nonetheless, the scope and complexity of air toxics and risk as well as the interplay between local and federal rules regarding air toxics virtually mandate a broader and more deliberate consideration. Another potential problem area is the number of regulations that are proposed to be revised and amended. The draft program includes six entirely new regulations and eight significantly amended regulations. The potential for internal inconsistency is high and warrants a deliberate analysis, rather than the rushed review that would be allowed by a 30-day comment period. This is why the rush to issue these rules is baffling to us and appears to be grounded in political, rather than substantive, concerns.

As noted above, we have not completed our detailed assessment of the draft rules. However, in the short time since the rules were released, we have already identified several concerns. As written, the draft regulations raise numerous questions. Indeed, our current draft technical comments comprise dozens of pages, and we have already identified several provisions in the draft for which

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compliance simply is not possible. These **critical flaws must be corrected before proposal**. For example, the draft rule requires that enhanced emissions reports for calendar year 2004 be submitted in July 2005. We simply cannot comply with this requirement because we have not been collecting current year data to the incredibly detailed level required by the draft regulations. At this late date, it would be impossible to recreate the data required.

In sum, **we have not been given an adequate opportunity to assess the full program** and simply are not fully prepared to respond to this informal release of the regulations, much less provide adequate comment during the short 30-day period that you intend to provide during the formal rulemaking process. This first draft STAR program should be set aside in favor of a more thoughtfully developed stakeholder-involved process. Alternately, the pace of regulatory review and implementation should be slowed substantially by delaying release of the proposal to make necessary corrections and providing a much longer public comment period. This will allow for development of an effective program with a reasonable chance of compliance by the regulated community.

Substantive Objections

In addition to the inadequate opportunity for public participation, GE's initial review indicates that there are several substantive problems with the proposed rules. **First and foremost, the unlimited scope of the draft STAR program goes beyond any other program in the country, is unworkable at a facility level, and is not justified based on the potential risks to public health.**

This draft regulatory package is dramatically more expansive than regulations found (or proposed) in other jurisdictions where other GE facilities and competitors operate. These draft regulations would **over-regulate some very common industrial chemicals and operations**. In the absence of *de minimis* levels of emissions and without practical operating exemptions (as included in the Michigan regulatory program upon which we understand the draft rules are based), this STAR program would directly impact numerous Appliance Park activities, including U.S. EPA-defined trivial activities such as roof and asphalt repair operations or use of office supplies (including printer and copier inks); Title V insignificant activities such as brazing, soldering and welding; and other common operations including natural gas combustion, onsite dispensation of gasoline into facility vehicles, and use of spray paint for touch-up purposes. Simply put, these proposed regulations go far beyond any program in any jurisdiction. Even if the District is not concerned with being consistent with other regulatory agencies, the scope of this proposal is unreasonably broad and goes beyond what is necessary to protect public health.

The draft rules also utilize such **overly conservative risk exposure presumptions that they will sweep far more sources into the program than actually pose risks**. For example, 70-year cumulative risk will not occur within the Appliance Park property at our security fenceline. By over-estimating exposure, key production operations will likely be forced to target emission levels below sustainable production levels, without the intended benefit to public health. The end result will be the necessity to outsource these operations and the employment associated with them. It is therefore essential that, before adopting any rules, the impact be assessed and evaluated against the risks that are actually posed, rather than using exaggerated risks that are not, in fact, present.

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Furthermore, the expanded regulatory reach built into this regulatory package for “new or modified” sources provides a strong disincentive for new investment at this facility or for any prospective employers to locate in the County. The administrative requirements alone will be very burdensome and costly, even for those sources that would ultimately demonstrate acceptable risk levels. As a result, it is clear that **the economic impact will be real, and it will be negative.**

Lastly, **the proposed STAR package includes several regulation changes that are not at all related to air toxics.** For example, changes to the malfunction rule affect all sources, not just those that emit toxic air contaminants. This draft STAR program is already extraordinarily complex and requires extensive resources to be thoughtfully reviewed by any stakeholder. Changing malfunction reporting procedures will not lessen the environmental impact of any plant incidents; they will only add to the administrative burden of facility staff during already labor-intensive periods of high activity. While we do not foreclose the possibility that malfunction rules may need revision, we are noting that doing so in this context has broader implications for which no justification or analysis has been presented by the District. Such changes need to be evaluated on their own merit in separate rulemaking proceedings to ensure complete evaluation and meaningful public participation.

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Finally, GE is concerned with the assertion that has been made and suggests instead that **this kind of far-reaching, overly complex regulatory approach to air toxics is not being duplicated throughout the country.** To the contrary, the trend that we continue to observe is states choosing to defer to federal MACT standards and targeting state and local air toxics regulations only to specific chemicals, sources or identified risks for their communities. These states recognize that federal MACT standards have substantially reduced risk in their communities and that EPA is embarking on an aggressive program under Section 112(f) of the Clean Air Act to address any residual risk that remains. The “kitchen sink” approach that is represented by the draft STAR program is not the norm and, because it is so unreasonable and contrary to accepted methods of regulatory analysis and procedure, will not be adopted by other jurisdictions.

Accordingly, we strongly encourage you to reconsider your support of this hastily drafted web of regulations and instead convene a stakeholder process to develop an effective and meaningful program for Jefferson County. As currently drafted, these regulations are so unmanageable that implementation and compliance will be impossible.

Thank you for this opportunity to share our general comments. Our specific technical comments will be provided as we have the opportunity to finalize them.

Sincerely,

Steven J. Marks
Business Air Programs Leader